

FCC MAIL SECTION

Federal Communications Commission

DA 99-1060

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 Before the
 Federal Communications Commission
 Washington, D.C. 20554

In the Matter of)	
)	CC Docket No. 99-201
)	
Bell Atlantic)	Transmittal No. 1138
Revisions to Tariff F.C.C. No. 1)	
Revisions to Tariff F.C.C. No. 11)	

PARTIAL SUSPENSION ORDER**Adopted: June 2, 1999****Released: June 2, 1999**

By the Chief, Competitive Pricing Division, Common Carrier Bureau:

1. On May 19, 1999, Bell Atlantic Telephone Companies (Bell Atlantic) filed Transmittal No. 1138 to revise its tariffs F.C.C. Nos. 1 and 11, currently scheduled to be effective June 3, 1999. Transmittal No. 1138 introduces Volume and Term Discount Plans for Bell Atlantic's Infospeed DSL Services. MCI WorldCom, Inc., Covad Communications Company, Network Access Solutions, CoreComm Newco, Inc., RCN Telecom Services, Inc., and xDSL Networks, Inc., filed petitions to reject, or, in the alternative, to suspend and investigate the transmittal; Sprint Corporation and the Telecommunications Resellers Association filed petitions to reject the transmittal; and the Commercial Internet eXchange Association filed a petition to suspend and investigate the transmittal. On May 28, 1999, Bell Atlantic filed a reply.

2. The revised tariff pages submitted under Transmittal No. 1138 contain the following statement:

The telecommunications services offered under the VTDP are provided at wholesale to carriers and non-carriers. The telecommunications services offered under the VTDP are not services that the Company provides at retail and, accordingly, are not subject to the rate provisions of sections 251(c)(4) and 252 (d)(3) of the Communications Act, 47 U.S.C. 251 (c)(4), 252 (d)(3).¹

We find that this language raises a significant question of lawfulness and warrants a full five-month statutory suspension pending investigation, pursuant to section 204 of the Communications Act of 1934,

¹ Bell Atlantic Transmittal No. 1138, Bell Atlantic Tariff F.C.C. No. 1, Third Revised Page 918.42, Section 16.8(F)(4)(a); and First Revised Page 17-42, Section 17.4.7(A).

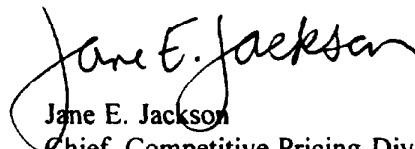
as amended.² Since this is a partial suspension, suspending only that language set forth *supra*, the remainder of the tariff is hereby allowed to go into effect. We will identify specific issues for this investigation and establish a pleading cycle in a future designation order. We note that the issue of the applicability of resale discounts to advanced services offered as exchange access services is currently being considered in the Wireline Advanced Services proceeding.³ This Partial Suspension Order is not intended to prejudge or resolve any matters at issue in that rulemaking proceeding. This tariff investigation will be conducted in coordination with further proceedings in Docket No. 98-147.

3. This proceeding is designated permit but disclose for purposes of the Commission's *ex parte* rules. *Ex parte* contacts, (i.e., written or oral communications that address the procedural merits of the proceeding and are directed to any member, officer or employee of the Commission who may reasonably be expected to be involved in the decisional process in this proceeding) are permitted in this proceeding until the commencement of the Sunshine Agenda period. The Sunshine Agenda period terminates when a final order is released and the final order is issued. Written *ex parte* contacts and memoranda summarizing oral *ex parte* contacts must be filed on the day of the presentation with the Secretary and Commission employees receiving each presentation. For other requirements, see generally Section 1.1200 *et seq.* of the Commission's Rules, 47 C.F.R. §§ 1.1200 *et seq.*

4. Accordingly, **IT IS ORDERED** that, pursuant to Section 204(a) of the Communications Act of 1934, as amended, 47 U.S.C. § 204(a), and Sections 0.91 and 0.291 of the Commission's Rules, 47 C.F.R. §§ 0.91, 0.291, the language filed under Bell Atlantic Transmittal No. 1138, as set forth in paragraph 2, *supra*, IS SUSPENDED for five months from the effective date and an investigation **IS INSTITUTED**.

5. **IT IS FURTHER ORDERED** that Bell Atlantic SHALL FILE tariff revisions within five business days of the release date of this Order to reflect this suspension.

FEDERAL COMMUNICATIONS COMMISSION



Jane E. Jackson
Chief, Competitive Pricing Division
Common Carrier Bureau

² 47 U.S.C. § 204(a)(1).

³ See generally, *Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket No. 98-147, First Report and Order and Further Notice of Proposed Rulemaking, FCC 99-48, (rel. March 31, 1999).